

**SENATE, No. 1659**

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**STATE OF NEW JERSEY**

**212th LEGISLATURE**

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INTRODUCED MARCH 20, 2006

**Sponsored by:**

**Senator GERALD CARDINALE**

**District 39 (Bergen)**

**Senator THOMAS H. KEAN, JR.**

**District 21 (Essex, Morris, Somerset and Union)**

**SYNOPSIS**

Creates crime of fiscal victimization against senior citizens or disabled persons.

**CURRENT VERSION OF TEXT**

As introduced.



1   **AN ACT** concerning senior citizens and persons with a disability  
2       and supplementing Title 2C of the New Jersey Statutes.

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4       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5       *of New Jersey:*

6  
7       1. a. Notwithstanding any other provision of law to the contrary,  
8       a person is guilty of the crime of fiscal victimization against a  
9       senior citizen or a person with a disability if he commits, attempts  
10      to commit, conspires with another to commit or threatens the  
11      immediate commission of a theft offense specified in chapter 20 of  
12      Title 2C of the New Jersey Statutes or a violation of N.J.S.2C:21-17  
13      against a senior citizen or a person with a disability. If the victim  
14      of an underlying offense is a senior citizen or a person with a  
15      disability, the actor shall be strictly liable for the victimization  
16      offense and it shall not be a defense that the actor did not know that  
17      the victim was a senior citizen or a person with a disability, nor  
18      shall it be a defense that the actor believed that the victim was not a  
19      senior citizen or a person with a disability, even if the mistaken  
20      belief was reasonable.

21      b. Grading. Fiscal victimization is a crime of the fourth degree  
22      if the underlying offense referred to in subsection a. of this section  
23      is a disorderly persons offense or petty disorderly persons offense.  
24      Otherwise, fiscal victimization is a crime one degree higher than the  
25      most serious underlying crime referred to in subsection a. of this  
26      section, except that when the underlying crime is a crime of the first  
27      degree, fiscal victimization is a first degree crime and the defendant  
28      upon conviction thereof may, notwithstanding the provisions of  
29      paragraph (1) of subsection a. of N.J.S.2C:43-6, be sentenced to an  
30      ordinary term of imprisonment between 10 years and 30 years, with  
31      a presumptive term of 20 years.

32      c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other  
33      provision of law to the contrary, a conviction of fiscal victimization  
34      shall not merge with a conviction of any of the underlying offenses  
35      referred to in subsection a. of this section, nor shall any conviction  
36      for the underlying offense merge with a conviction for fiscal  
37      victimization. The court shall impose separate sentences upon a  
38      conviction for fiscal victimization and a conviction of any  
39      underlying offense.

40      d. For the purposes of this section:

41        "Senior citizen" means a person 60 years of age or older; and

42        "Person with a disability" means a person who by reason of a  
43        pre-existing medically determinable physical or mental impairment  
44        is substantially incapable of exercising normal physical or mental  
45        power of resistance, and includes, but is not limited to, a person  
46        determined disabled pursuant to the federal Social Security Act or  
47        any other governmental retirement or benefits program that uses  
48        substantially the same criteria for determining eligibility.

1        2. This act shall take effect immediately.

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#### STATEMENT

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6        This bill creates the separate crime of fiscal victimization of a  
7 senior citizen or a person with a disability.

8        Under the provisions of the bill a person would be guilty of fiscal  
9 victimization if he commits, attempts to commit, conspires with  
10 another to commit or threatens to commit a theft offense specified  
11 in chapter 20 of Title 2C of the New Jersey Statutes or a violation  
12 of N.J.S.2C:21-17, identity theft, against a senior citizen or a person  
13 with a disability. Fiscal victimization is a crime of the fourth  
14 degree if the underlying offense is a disorderly persons offense or  
15 petty disorderly persons offense. Otherwise, fiscal victimization is  
16 a crime one degree higher than the most serious underlying crime,  
17 except if the underlying crime is a crime of the first degree. Under  
18 those circumstances, fiscal victimization would be a first degree  
19 crime and upon conviction the defendant could be sentenced to an  
20 ordinary term of imprisonment between 10 years and 30 years, with  
21 a presumptive term of 20 years, notwithstanding the provisions of  
22 N.J.S.A.2C:43-6.

23        The bill also provides a conviction of fiscal victimization would  
24 not merge with a conviction of any of the underlying offenses, nor  
25 would any conviction for the underlying offense merge with a  
26 conviction for fiscal victimization. Therefore, the court would be  
27 authorized to impose separate sentences upon a conviction for fiscal  
28 victimization and a conviction of any underlying offense.

29        In addition, the bill provides that if the victim of the underlying  
30 offense is a senior citizen or a person with a disability, the actor  
31 would be strictly liable for the victimization offense. It would not  
32 be a defense that the actor did not know that the victim was a senior  
33 citizen or a person with a disability, nor would it be defense that the  
34 actor believed that the victim was not a senior citizen or a person  
35 with a disability, even if the mistaken belief was reasonable.

36        The bill defines a "senior citizen" as a person 60 years of age or  
37 older. "Person with a disability" is defined as a person who by  
38 reason of a pre-existing medically determinable physical or mental  
39 impairment is substantially incapable of exercising normal physical  
40 or mental power of resistance, and includes, but is not limited to, a  
41 person determined disabled pursuant to the federal Social Security  
42 Act or any other governmental retirement or benefits program that  
43 uses substantially the same criteria for determining eligibility.